IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 14841 of 2004

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Between:

M/s Sri Chakra Cements Ltd, Durganagar Colony,

Panjagutta, Hyderabad, rep. by its

General Manager (Finance), V. Venkateswarlu

S/o V.V. Ratnam, R/o Hyderabad.

..... PETITIONER

AND

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1 Regional Provident Fund Commissioner, Sub Regional

Office, Guntur, Guntur District.
2 Enforcement Officer, Accounts Group, O/o Regional

Provident Fund Commissioner, Sub Regional Office,

Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ declaring that the action of the respondents in directing attachment of the Bank Account of the petitioner and proceeding with recovery of the amount contained in the order of the 1st respondent in Proceedings No,. AP/GNT/ENF.I /16470/2004/273 dated 11-6-2004 when the appeal filed by the petitioner in ATA 545 (1) 2004 is pending before the Provident Fund Appellate Tribunal, New Delhi, is arbitrary and illegal and directs the respondents not to take any coercive steps for recovery of the amount covered by the order of the 1st respondent in Proceedings No. AP/GNT/ENF.I/16470/2004/273

dated 11-6-2004 during the pendency of the appeal before the Provident Fund Appellate Tribunal, New Delhi.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for Respondents: MR.R.N.REDDY

The Court Made the Following ORDER:

The petitioner establishment was served with the impugned order dated 11-6-2004, passed by the first respondent under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, levying penal damages of Rs.8,09,558.15 ps., for the period from April 1999 to March 2003. Aggrieved by the same, the petitioner carried the matter in appeal bearing Case No.ATA.545 (1) 2004 before the Employees Provident Fund Appellate Tribunal, New Delhi along with stay petition and waiver of deposit petition also. But, since the Presiding Officer of the Tribunal is not appointed, the said appeal has not taken up and the same is still pending. Hence, the petitioner moved this court by way of filing the present writ petition praying to declare the impugned order dated 11-6-2004, passed by the first respondent, as illegal and void.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents, who fairly submitted that the matter can be disposed of in the light of usual orders passed by this Court in cases of statutory remedy of appeal.

Having regard to the fact that the petitioner availed the statutory remedy of appeal, without expressing any opinion on the merits of the case, on condition of the petitioner depositing 50 percent of the penal damages levied by the first respondent through the impugned order, within a period of six weeks from today, the impugned order is stayed. On such deposit, the appellate authority shall consider and dispose of the appeal preferred by the petitioner in accordance with law, without insisting for any further deposit of the penal damages. However, the impugned order shall not be enforced by the first respondent, if the conditional order is complied with, till the appeal filed by the petitioner is disposed of by the second respondent.

With the above direction, the writ petition is disposed of. No costs.

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A. Gopal Reddy, J.

20th August, 2004.

Js.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Regional Provident Fund Commissioner, Sub Regional

Office, Guntur, Guntur District.

2 Enforcement Officer, Accounts Group, O/o Regional

Provident Fund Commissioner, Sub Regional Office,

Guntur.

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